



Memorandum # 33/2002

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission
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Joseph E. Connarton, *Executive Director*

MEMORANDUM

TO: Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: PERAC Review of Retirement Board Grants of Termination Retirements

DATE: August 20, 2002

Outside sections of the FY 2003 Budget amended G.L. c. 32, § 10(2) and § 21(1)(d), and added new requirements for the processing of termination retirement allowances. Both of these amendments became effective on July 1, 2002.

Employer Certification

The amendment to G.L. c. 32, § 10(2) provides that Retirement Boards shall require the employer of any employee applying for a termination retirement allowance to certify in writing, under the pains and penalties of perjury, that one of the following circumstances applies:

- (1) that the employee has failed of nomination or re-election; or
- (2) that the employee has failed of reappointment; or
- (3) that the employee's office or position has been abolished; or
- (4) that the employee has been removed or discharged from his position without moral turpitude on his part.

PERAC Review

In addition to the amendment discussed above, G.L. c. 32, § 21(1)(d) was amended to provide for PERAC review of Retirement Board grants of termination allowances pursuant to G.L. c. 32, § 10(2). Retirement Boards must submit all termination retirement applications for retirement dates **effective on or after July 1, 2002** to PERAC

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for review. The standard for this review will be the same as for PERAC's review of Retirement Board grants of disability retirements. The Board grants may be remanded with written instructions to the Retirement Board for further proceedings if the decision of the Board is:

- (1) made upon unlawful procedure; or
- (2) unsupported by substantial evidence; or
- (3) arbitrary and capricious; or
- (4) a result of fraud or misrepresentation.

PERAC will take action within 30 days of the date that the notification of the Board's action is received. If PERAC takes no action within the 30-day period, the determination of the Retirement Board shall be considered to have been approved by PERAC. If an application is remanded, the applicant will be provided with a copy of PERAC's remand letter.

Enclosed is the form that the employer will be required to complete and submit to the Retirement Board when a member is applying for a termination retirement pursuant to G.L. c. 32, § 10(2). Also enclosed is the form that Retirement Boards will be required to use to submit these applications to PERAC for review pursuant to G.L. c. 32, § 21(1)(d). Retirement Boards must begin to use these forms immediately.